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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/744,197	10/12/2001	Olga Bandman	PF-0564 USN	3874

27904 7590 03/04/2004

INCYTE CORPORATION  
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EXAMINER

HOLLERAN, ANNE L

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/744,197

**Applicant(s)**

BANDMAN ET AL.

**Examiner**

Anne Holleran

**Art Unit**

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions that are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1, 2, 13, 17 and 18, drawn to polypeptides comprising the amino acid sequence of SEQ ID NO: 1 or fragments thereof; drawn to pharmaceutical compositions; drawn to methods of treating or preventing a neurological disorder; and drawn to methods of treating or preventing a cardiovascular disorder.

Group II, claim(s) 1, 2, 13, 17 and 18, drawn to polypeptides comprising the amino acid sequence of SEQ ID NO: 2, or fragments thereof; drawn to pharmaceutical compositions; drawn to methods of treating or preventing a neurological disorder; and drawn to methods of treating or preventing a cardiovascular disorder.

Group III, claim(s) 3-12, 20 and 21, drawn to polynucleotides encoding polypeptides comprising SEQ ID NO: 1, or fragments thereof; drawn to vectors, host cells, methods of producing a polypeptide and to methods of detecting a polynucleotide.

Group IV, claim(s) 3-12, 20 and 21, drawn to polynucleotides encoding polypeptides comprising SEQ ID NO: 2, or fragments thereof; drawn to vectors, host cells, methods of producing a polypeptide and to methods of detecting a polynucleotide.

Group V, claim(s) 15, drawn to an agonist of a polypeptide comprising the amino acid of SEQ ID NO: 1, or fragments thereof.

Group VI, claim(s) 15, drawn to an agonist of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, or fragments thereof.

Group VII, claim(s) 16 and 19, drawn to an antagonist of a polypeptide comprising the amino acid sequence of SEQ ID NO: 1, or fragments thereof; and to methods of treating or preventing cancer comprising administering said antagonist.

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Group VIII, claim(s) 16 and 19, drawn to an antagonist of a polypeptide comprising the amino acid sequence of SEQ ID NO: 2, or fragments thereof; and to methods of treating or preventing cancer comprising administering said antagonist.

The inventions listed as Groups I-VIII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the technical feature that would possibly unite all of the separate inventions is either, in the case of groups I, III, V, and VI, the polypeptides comprising SEQ ID NO: 1, or comprising fragments of SEQ ID NO: 1; or, in the case of groups II, IV, VI, and VIII, the polypeptides comprising SEQ ID NO: 2, or comprising fragments of SEQ ID NO: 2. However, neither of these products is a special technical feature as defined in PCT Rule 13.2, because the products of either the polypeptide comprising a fragment of SEQ ID NO: 1, or the polypeptide comprising the fragment of SEQ ID NO: 2 are obvious over the prior art, as evidenced by Accession No. AA551623 (Database EMBL), Accession No. AA507028 (Database EMBL), Accession No. AA147831 (Database EMBL) or Accession No. AA359824 (Adams et al), which teach polynucleotides encoding polypeptides that comprise fragments of either SEQ ID NO: 1 or SEQ ID NO: 2. Therefore, the technical feature of either the polypeptide comprising a fragment of SEQ ID NO: 1 or the polypeptide comprising a fragment of SEQ ID NO: 2, is not a contribution, considered as a whole, that is made over the prior art.

Furthermore, each of SEQ ID NO: 1 and SEQ ID NO: 2, define separate polypeptide structures that lack unity of invention, because they have no special technical feature in common.

Upon election of any of the groups, applicant is required to amend the claims to refer only to the product of the elected group.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the Office should be directed to Anne Holleran, Ph.D. whose telephone number is (571) 272-0833. Examiner Holleran can normally be reached Monday through Friday, 9:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, Ph.D. can be reached at (571) 272-0871.

*Alt*  
Anne L. Holleran  
Patent Examiner  
February 27, 2004

*Gary d. Kunz*  
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